



ITW

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Takeshi HOSHIBA et al.

Group Art Unit: 3618

Application No.: 10/585,669

Examiner: J. RESTIFO

Filed: July 7, 2006

Docket No.: 128603

For: ELECTRIC VEHICLE AND CONTROL METHOD OF THE SAME

RESPONSE TO ELECTION OF SPECIES REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In reply to the March 26, 2008 Election of Species Requirement, Applicants provisionally elect Species A, drawn to Figure 1, with traverse. Applicants submit that claims 1-14 are readable on Species A and that claims 1 and 11 are generic to all species.

However, this election of Species Requirement is strongly traversed since it is contrary to PCT rules. For example, Article 27, of the Patent Corporation Treaty requires that: "no national law shall require compliance with requirements relating to the form or contents of the international application different from or in addition to those which are provided for in this Treaty and the regulations."

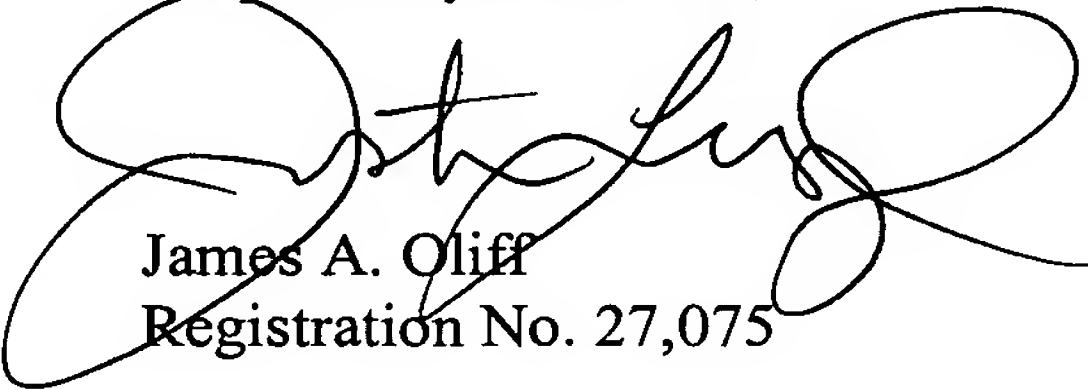
Further, PCT Rule 13 requires that claims which encompass one single general inventive concept be searched and examined in the same international application. For example, PCT Rule 13.1 states: "the international application shall relate to one invention or to a group of inventions so linked as to form a single general inventive concept."

Furthermore, PCT Rule 13.4 expressly states that: "subject to Rule 13.1, it shall be permitted to include in the same international application a reasonable number of dependent claims claiming specific forms of the invention claimed in an independent claim, even where the features of any dependent claim could be considered as constituting in themselves an invention."

The Election of Species Requirement is a convention specific to U.S. National Patent Application Examination practice. PCT Rule 13.1 specifically contemplates the single examination of a group of inventions so linked as to form a single general inventive concept, and PCT Rule 13.4 specifically requires examination of species claims within a single general inventive concept. Nothing in the PCT or its rules permits issuing an Election of Species Requirement. Any United States practice (such as an Election of Species Requirement) or interpretation of the rule which is different from or in addition to the unity of practice as delineated in PCT Unity Rules 13.1-13.4 and is contrary to PCT Article 27, and the present election of Species Requirement is accordingly prohibited by Article 27.

The Examiner is respectfully requested to reconsider and withdraw the Election of Species Requirement and to examine all of the species and claims in the application.

Respectfully submitted,



James A. Oliff
Registration No. 27,075

Justin T. Lingard
Registration No. 61,276

JAO:JTL/jcp

Date: April 22, 2008

OLIFF & BERRIDGE, PLC
P.O. Box 320850
Alexandria, Virginia 22320-4850
Telephone: (703) 836-6400

<p>DEPOSIT ACCOUNT USE AUTHORIZATION Please grant any extension necessary for entry; Charge any fee due to our Deposit Account No. 15-0461</p>
